

REMARKS

Claims 1-23 were examined. In this Office Action, the pending claims 1, 3-8, 10-14, 18-21 and 23 are rejected under 35 USC 103(e) as being unpatentable over Sampat et al (US 5,557,724, hereinafter "Sampat") in view of Swix et al (US Patent No.:6,609,253, hereinafter "Swix"), Claim 2 is rejected under 35 USC 103(e) as being unpatentable over Sampat in view of Swix and Dunn et al (US Patent No.:5,721,829, hereinafter "Dunn"), and Claims 9, 15-17, and 22 are rejected under 35 USC 103(e) as being unpatentable over Sampat in view of Swix and Goode et al (US Patent No.:6,166,730, hereinafter "Goode").

Comments on Examiner's Response to Arguments

The Examiner is appreciated for his thoughtful comments in the first two paragraphs of the Office Action. However, the Applicant respectfully disagrees with the Examiner's assertion that "*Sampat clearly shows that the media delivery center performs the retention of a paused program in the media deliver center.*"

Evidently, "*a paused program*" in the context of Claim 1 is limited to a program paused based on a request from a client machine. As reasoned in the response to the first office action, Sampat teaches two separate pause functions, one at a client machine, and the other at the server, there is no connection between these two separate operations. On the sever side, when the pause is requested by a system operator in the server side, the MSP (media service provider) stops sending data, see lines 5-20 of Col. 13. On the client side, when the pause is requested by a user, other things, such as network, disk or CPU intensive job could be handled properly in the client machine. The referenced descriptions by the Examiner, such as Col. 8, line 17-22, Col. 9 lines 17-26, Col. 12 lines 53-65 and Col 13 lines 5-20, do not seem to support the Examiner's assertion.

Regarding the Examiner comments on the combination of Sampat with Dunn, the Applicant respectfully notices that the Examiner may have stipulated some features that neither Sampat nor Dunn would have perceived. Dunn teaches a broadcasting of a VOD (video-on-demand) and records an appropriate point when a

user switches to a different channel. Dunn does not teach at all that a user desires to pause a program and the pause request is sent to a server for retention of the remaining portion of the program. In operation, the combination of these two references is mutually exclusive. In any case, the Applicant appreciates the Examiner that such combination is no longer applied to the independent claims.

Arguments on the new ground(s) of rejection

It is axiomatic that an invention in a patent application is defined by, and must be examined with respect to, the specific language in the claims. Specific and distinct feature(s) in Claim 1 are set forth below:

1. receiving at the media server a pause request from a particular one of the client machines requesting to pause a particular one of the broadcasted programs being delivered to the particular one of the client machines;
2. while continuing to deliver the particular one of the broadcasted programs to the remaining client machines, performing the pause request by server-side retention of the program content for the particular one of the broadcasted programs in the media server in response to the pause request so as to render the program content following the pause request to be subsequently available to a device chosen by a user of the particular one of the client machines, as if the user is continuing live with the particular one of the broadcasted programs while the remaining client machines in fact are ahead of the particular one of the broadcasted programs.

(emphasis added)

The Examiner has acknowledged in paragraph 5 of the Office Action that Sampat fails to show that the media delivery center (i.e., server) receives a pause request from the client..." and thus cited Swix to show such feature. The Applicants respectfully contest the combination of Sampat and Swix as it is believed that there is no motivation to combine these two references in the manner proposed by the Examiner. Nevertheless, even if these references were to be combined, the combination would still fail to teach or suggest the features recited in claims 1, 15 and 18.

Swix discloses an optional approach of moving a navigator to a head end 104, in which case a set-top box would merely send a pause request. In spite of the fact that there is no further description of how a navigator could operate in a head

end (e.g., a server), a pause signal is assumed received in the Sampat system, then which one of the two pause functions the Sampat system would react? As described above, there are mutually exclusive pause functions in Sampat, one being initiated by a system administrator to stop an MSP (media service provider) sending data, and the other being on the client side to accelerate other things, such as network, disk or CPU intensive job by pausing receiving data from the head end.

Even if the Swix's pause request was received in a server, Sampat has clearly concluded that the pause request would only stop an MSP (media service provider) or a server sending data. Evidently, the combination of Sampat and Swix has taught away from Claim 1.

Claim 1 is further amended to include that while continuing to deliver the particular one of the broadcasted programs to the remaining client machines, the program content being requested to pause is retained in the server that later deliver at request the retained program content to the user, as if the user is continuing live with the particular one of the broadcasted programs while the remaining client machines in fact are ahead of the particular one of the broadcasted programs. The Applicant respectfully submits that the amended Claim 1 is neither taught nor suggested by Sampat, Swix or Dunn, viewed alone or in combination, and should be allowable over the cited references. Reconsideration of claims 1-14 is respectfully requested.

Claims 15-23 incorporate similar features recited in Claim 1 and are also rejected for the similar reasons as for Claim 1. The Applicants wish to apply the above remarks to support Claims 15-23. In addition, Claim 15 recites that "within a predefined time limit" because the architecture described in the specification of the pending application does have a time limit, different from that of Sampat, Swix or Dunn, the retained program can be only replayed when the retained program is still in the cache, namely not dropped yet. Reconsideration of claims 15-23 is respectfully requested.

In summary, none of the cited references, viewed alone or in combination, have taught or suggested the combined features recited in the pending claims. In

view of the above amendments and remarks, the Applicants believe that amended Claims 1-23 shall be in condition for allowance over the cited references. Early and favorable action is being respectfully solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplementary Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at (408)777-8873.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Commissioner of Patents and Trademarks, Washington, DC 20231", 11/21/2004.

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Respectfully submitted;


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